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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ANTHONY D. DAWKINS,

11 Plaintiff,

12 vs.

13 C. BUTLER, Correctional Captain, et
14 al.,

15 Defendants.

CASE NO. 09CV1053 JLS (DHB)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION; AND
(2) GRANTING MOTION BY
DEFENDANT G. SIOTA TO
DISMISS PLAINTIFF'S FOURTH
AMENDED COMPLAINT**

(ECF Nos. 151, 174)

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17 Presently before the Court is Defendant G. Siota's Motion to Dismiss Plaintiff's
18 Fourth Amended Complaint Filed April 29, 2011 [Fed. R. Civ. P. 12(b)]. (ECF No.
19 151). Also before the Court is Magistrate Judge Bartick's Report and Recommendation
20 ("R&R") advising that the Court **GRANT** the motion. (ECF No. 174).

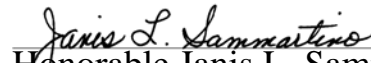
21 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a
22 district court's duties in connection with a magistrate judge's R&R. The district court
23 must "make a de novo determination of those portions of the report to which objection
24 is made," and "may accept, reject, or modify, in whole or in part, the findings or
25 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also*
26 *United States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874
27 F.2d 614, 617 (9th Cir. 1989). In the absence of timely objection, however, the Court
28 "need only satisfy itself that there is no clear error on the face of the record in order to

1 accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing
2 *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

3 Here, Plaintiff has failed to file timely objections to Magistrate Judge Bartick’s
4 R&R. Having reviewed the R&R, the Court finds that it is thorough, well reasoned, and
5 contains no clear error. Accordingly, the Court **ADOPTS** Magistrate Judge Bartick’s
6 R&R in its entirety and **GRANTS** the motion to dismiss. Plaintiff’s claims against
7 Defendant G. Siota are **DISMISSED WITHOUT PREJUDICE**.

8 **IT IS SO ORDERED.**

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10 DATED: June 7, 2013

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12 Honorable Janis L. Sammartino
13 United States District Judge
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